

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 28, 2003
)	
Eric K. Foster)	DOCKET NO.: 03F-095
Deputy Director (Former))	
Office of Community Outreach)	
Executive Office of the Mayor)	
341-17 th Place, NE, Apt. B)	
Washington, DC 20002)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Eric K. Foster, Deputy Director, Office of Community Outreach, Executive Office of the Mayor, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 8, 2003, OCF ordered Eric K. Foster (hereinafter respondent), to appear at a scheduled hearing on August 19, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 19, 2003, respondent appeared at the scheduled hearing, and testified that his employment terminated with the District Government on June 13, 2002. Respondent stated he subsequently went to Texas to work on a campaign. Respondent further stated he was not in receipt of correspondence from OCF. While respondent acknowledges having been afforded an exit interview, he stated no information was

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provided concerning the requirement to file a final FDS. Respondent filed a final FDS at the conclusion of the hearing.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent was a delinquent filer in calendar year 2001.
2. Respondent's employment with the District Government terminated on June 13, 2002.
3. Respondent asserted he moved to Texas and did not receive notifications to file from OCF.
4. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
5. Respondent filed the required Financial Disclosure Statement on August 19, 2003.
6. Respondent asserted he was afforded an exit interview, but was not informed of the requirement to file a final FDS.
7. OCF provided notice to file if the filer ceases to serve prior to May 15th of any year, and within 30 days of any change in information on its Financial Disclosure Statement form.
8. Respondent provided a credible explanation for the filing delinquency in that he was not aware of the requirement to file a final FDS with OCF.
9. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.

2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
4. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
5. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
6. Respondent's filing of the required FDS, albeit delinquent, mitigates toward the imposition of a lower fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director impose a fine of \$500.00 in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that a fine of \$500.00 be hereby imposed in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.